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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/692,920
Filing Date: October 20, 2000
Appellant(s): BANKER ET AL.

Robert Banker
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/08/2008 appealing from the Office action mailed 7/22/2008.

(1) Real party in Interest

A Statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5 850 218	LaJoie	12-1998
5 721 897	Rubenstein	2-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 32, 34, 35, 38 - 45, 52 - 55 and 57-59 rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie, patent number: US 5 850 218 in view of Rubienstien, patent number: US 5 721 897.

As per claims 1, 2, 52 and 59, LaJoie teaches a method for providing media information to a user via an interactive media services client device coupled to a programmable media services server device (Distribution Fig. 1, 6, 15), said method comprising steps of:

“media services client device for providing media to a user” [6] comprising a “processor” [30] and “memory for storing media information . . . corresponding to a plurality of respective accessible media” [32] that are received via a server [15](user receiving data, col. 10, line 42 - col. 11, lines 19, 45 - 60);

Configuring a display order of media titles in the received media information according to the value of a media information parameter (col. 27, lines 64 – col. 28, line 26);

Configuring the continuous sequence of user-selectable index for indexing the media titles in the display order, each user-selectable index corresponding directly to

the media titles in the received media information determined by a respective values of the media information parameter corresponding to the user selectable index (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26), such that selection of any of the user-selectable index automatically provides the media titles corresponding to the selected index (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26);

Presenting, to the user, the selectable index in an interactive media guide display (Fig. 22 and 23);

Receiving selection of a first user-selectable index, the selection being a triggering event to provide at least a portion of the media titles corresponding to the first user-selectable index range and without presenting an additional index that was not previously presented prior to selection of the first user selectable index (display based on selection, Fig. 22 and 23, col. 28, lines 16 - 49)

Directly responsive to a user selecting a first user selectable index range, providing simultaneously in the display order at least a portion of the media titles corresponding to the first user selectable index range (Fig. 22 and 23, col. 28, lines 16 - 49)

LaJoie does not teach Configuring each index in a continuous sequence of variably sized user selectable index ranges the size of each of the index ranges based on a predetermined threshold number of media titles; each of the user selectable index range being configured to provide the media titles according to the threshold defining a predetermined number of media titles. Wherein, in response to determining that the

number of media titles corresponding to the first user selectable index range is less than the threshold, combining the first user selectable index range with an index within another user selectable index range such that the media titles corresponding to the first user-selectable index may be accessed via a combined user selectable index range.

In an analogous art, Rubenstein teaches configuring each index (512, Fig. 5) in a continuous sequence of variably sized user selectable index ranges the size of each of the index ranges based on a predetermined threshold number of media titles; each of the user selectable index range being configured to provide the media titles according to the threshold defining a predetermined number of media titles.

Wherein, in response to determining that the number of media titles corresponding to the first user selectable index range is less than the threshold, combining the first user selectable index range with an index within another user selectable index range such that the media titles corresponding to the first user-selectable index may be accessed via a combined user selectable index range (col. 27, line 64 – col. 28, line 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the interactive program of LaJoie by including an indexing configuration as described in Rubenstein's browsing system for the advantages of having predictable results of facilitating the quick retrieval of information of interest.

As per claim 17, an interactive media services client device for providing media information to a user [6] comprising:

memory for storing media information received from a server [32], said media information

corresponding to a plurality of respective accessible media; and a processor [30] configured to:

present, to the user, the selectable index in an interactive media guide display, determine the media titles in the received media information corresponding to each user-selectable index and a user-selected category (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26);

and

directly responsive to a user input, provide simultaneously in the display order at least a portion of the media titles in the received media information corresponding to a first user-selectable index and the user-selected display, without presenting an additional index that was not previously presented prior to selection of the first user-selectable index (display based on selection, Fig. 22 and 23, col. 28, lines 16 - 49)

LaJoie does not teach a user selectable index range and each of the user selectable index ranges being configured to provide a portion of the media titles based on a predetermined threshold number of media titles, directly in response to selection of one of the selectable index ranges;

enable a continuous sequence of variably sized user-selectable index ranges for indexing displayed media titles, each user-selectable index range directly corresponding

to a range, the size of each of the index ranges based on a predetermined threshold number of media titles;
causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title;

In an analogous art, Rubenstein teaches each of the user selectable index ranges being configured to provide a portion of the media titles based on a predetermined threshold number of media titles, directly in response to selection of one of the selectable index ranges. Enable a continuous sequence of variably sized user-selectable index ranges for indexing displayed media titles, each user-selectable index range directly corresponding to a range, the size of each of the index ranges based on a predetermined threshold number of media titles (col. 27, line 64 – col. 28, line 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the interactive program of LaJoie by including an indexing configuration as described in Rubenstein's browsing system for the advantages of having predictable results of facilitating the quick retrieval of information of interest. The combination of LaJoie and Rubenstein does not teach causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title.

In an analogous art, Young teaches causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title (Young: col. 13, lines 60 – col. 15, line 23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of LaJoie and Rubenstein by including a system that also sorts program based on date as described in Young's television schedule system for the advantages of ordering the display of information based on available characteristics.

(10) Response to Argument

Appellant initially submits that the rejection should be overturned based on the combination of LaJoie and Rubenstein not teaching all elements of the claims at issue, the examiner respectfully disagrees.

With regards to appellant's arguments corresponding to claims 1 and 59 about the combination of LaJoie and Rubenstein not suggesting "configuring each index in a continuous sequences of variably sized user-selectable index ranges... the size of each of the index ranges based on a predetermined threshold number of media titles", LaJoie teaches an EPG that gives access to available programs by providing indexes that correspond to television programs. An example of indexes corresponding to TV programs is Fig. 20. Fig. 20 shows an EPG with different sections on the page. The page contains a reduced version of the selected video, an information widow for the selected program and a program listing with themes to the left; these themes are interpreted as the indexes. The user is given the ability to select themes. Based on the theme selected, the system displays programs. LaJoie also teaches letters that correspond to programs as described in Fig. 22. Just as described above when any

letter is selected, programs are displayed that correspond to the selected letter, col. 27, line 64 – col28, line 26.

Rubenstein teaches a system that lets a user browse content based on relevant keywords, it teaches a keyword pane that includes a tabbed index which is used to select for display the key words or key phrases beginning with the letters or numbers on a corresponding selected tab of tabbed indexes, the indexes including alphanumeric symbols. Rubenstein further teaches a system of dynamically generating indexes. The generation is done by scanning the keyword and key phrases, tallying the number of occurrences of the alphanumeric characters. The average number of keyword beginning with the same alphanumeric character is then computed and then groups of sequential characters are collected so that the total number of key words beginning with the alphanumeric character from the group approaches the average previously calculated (col. 10, lines 53 - 63).

The appellant argues that the comparison in Rubinstein is to a computed average rather than a "predetermined threshold".

From the above explanation, it is clear that Rubinstein calculates an average value based on keyword occurrence then uses the value calculated as a limiting value for indexing, col. 10, lines 52 – 67. Hence, using a calculated average value to limit subsequent index grouping is equivalent to using a threshold or predetermined number to control and indexing process.

Also, in response to arguments about the threshold being determined before the index is configured. Rubenstein talks about inserting the alphanumeric character that

represents an index after the characters corresponding to the index are determined (col. 11, lines 5 - 10).

With regards to appellant's arguments with regard to claim 2, see response above.

With regards to appellant's arguments with regard to claim 52, see response above.

With regards to appellant's arguments with regard to claim 17, see response above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Olugbenga O Idowu/

Examiner, Art Unit 2425

Conferees:

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2425

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2426